EXHIBIT A

Ciccarella Sentencing Transcripts

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA,

v. 16 CR 738 (AKH)

JOSEPH CICCARELLA,

Defendant.

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New York, N.Y.
March 3, 2017
12:20 p.m.

Before:

HON. ALVIN K. HELLERSTEIN,

District Judge

APPEARANCES

PREET BHARARA
United States Attorney for the
Southern District of New York
STANLEY J. OKULA
Assistant United States Attorney

RICHARD KESTENBAUM
Attorney for Defendant

ALSO PRESENT: Special Agent Barbara Renkin, IRS
U.S. Probation Officers Nicolo DiMaria and Alicia Geiser

THE DEPUTY CLERK: United States v. Ciccarella. Counsel, please state your appearances for the record.

MR. OKULA: Good afternoon, your Honor. Stanley Okula for the United States. With me is Barbara Renkin from the Internal Revenue Service.

MR. KESTENBAUM: Richard Kestenbaum, I represent the defendant Joseph Ciccarella who is seated beside me.

THE COURT: Good afternoon, Mr. Kestenbaum. Good afternoon, Mr. Ciccarella.

I want to recognize Mr. Nicolo DiMaria and Alicia Geiser, probation officers.

Mr. Ciccarella, it is my duty to sentence you today. Have you read the presentence investigative report?

THE DEFEDANT: Yes, I have, your Honor.

THE COURT: Have you discussed it with Mr. Kestenbaum?

THE DEFEDANT: Yes, I have.

THE COURT: Mr. Kestenbaum, are there any factual errors that have not yet been corrected?

MR. KESTENBAUM: No, your Honor.

THE COURT: Does the government know any, Mr. Okula?

MR. OKULA: The only small one is the following, your Honor, and this emerged --

THE COURT: It's been fixed?

MR. OKULA: It has not been fixed.

THE COURT: Which one is that?

MR. OKULA: It emerged in some of the letters or I think in one of the communications involving Mr. DiMaria, that Mr. Ciccarella is the owner, in addition to the two vehicles in the asset statement in the PSR, also of a Ferrari vehicle that is not reflected, no value is reflected on that in the presentence report. And I would just --

THE COURT: Where is that?

MR. OKULA: On page 13, paragraph 75. There are two vehicles listed. One is a 2015 Lincoln MKC, there is a 2007 Lamborghini vehicle. But in the communications, in various letters that were submitted, there was a reference to a Ferrari that exists as well. So, there is no value that's been put on that. In the spirit of accuracy, in making sure all the defendant's assets are listed, I would ask that Mr. Kestenbaum provide some sort of proffer about the value of that so it would be added to the PSR.

MR. KESTENBAUM: Your Honor, the vehicle that Mr. Okula is referring to --

THE COURT: Louder please, gentlemen.

MR. KESTENBAUM: The vehicle that --

THE COURT: Mr. Ciccarella, you can sit down.

MR. KESTENBAUM: The vehicle that Mr. Okula is referring to has been off the road for 10 years. It has been parked in his mother's garage unused for 10 years. I don't know it has any value now. I guess --

THE COURT: Why wasn't it disclosed?

MR. KESTENBAUM: He forgot about it, quite frankly. He hasn't seen the car in 10 years. He hasn't used it.

THE COURT: It's in his garage.

MR. KESTENBAUM: It is in his mother's house. And it was in the presentence investigation report. When Mr. DiMaria interviewed Mr. Ciccarella, he noticed a poster from Ferrari and he asked why Mr. Ciccarella had the poster. Mr. Ciccarella told him that he remembered now that he also had that car that's been sitting for 10 years unused, and doesn't start, and I don't know if it has any value at this point, your Honor.

THE COURT: Okay. Thank you.

MR. OKULA: Other than that, we have nothing else, your Honor.

THE COURT: I find the facts as stated in the presentence investigation report, except that paragraph 75 shall add the Ferrari. Mr. Kestenbaum will give the details and provide the estimate of no value. So you better, Mr. Kestenbaum, look for yourself, because 10-year-old Ferraris tend to have value, even if they're not road worthy.

MR. KESTENBAUM: Your Honor, it is not a 10-year-old car. It's been sitting for 10 years. It is a 1992.

THE COURT: Maybe it has more value then.

MR. KESTENBAUM: I don't know. I honestly don't know what the value is.

THE COURT: Find out.

MR. KESTENBAUM: I will.

THE COURT: It's in the interest of full disclosure, right?

MR. KESTENBAUM: Yes.

THE COURT: So fix it up. Fix it up by next Tuesday. Other than that, I find the facts set out in the investigative report.

First task is to set out an analysis of the guidelines. The offense level is found under Section 2T4.1(g). And because the tax loss is greater than $250,000 and less than $550,000, the base offense level is 18. I find that there has been a demonstration of acceptance of responsibility on a timely basis, so that the net offense level becomes 15. There's no criminal history points. A net offense level of 15 yields a range of custodial punishment of 18 to 24 months under the guidelines, followed by supervised release of one to three years.

Do I have it right, Mr. Okula?

MR. OKULA: Yes, your Honor.

THE COURT: Mr. Kestenbaum?

MR. KESTENBAUM: Yes, your Honor.

THE COURT: I so find.

Mr. Kestenbaum, the floor is yours.

MR. KESTENBAUM: Your Honor, much of what I have to say I've already said in my presentence submission.

THE COURT: Which I've read with all the letters that have come in.

MR. KESTENBAUM: I appreciate that. I do want to emphasize a few points, however. Most important, your Honor, defendant has accepted his responsibility fully for the position he finds himself in today. His decision to try to save his failing businesses by taking money from one company and using it to pay the expenses of another company was, plain and simple, a bad decision, and resulted in the filing of bad tax returns.

However, as the probation department has recognized, the defendant has suffered from anxiety and depression for many years, and was addicted to opioids during the relevant periods in this case. While he's not blaming his tax problems on his drug and psychological issues, his life was completely out of control during these years.

He's now engaged in meaningful therapy and is no longer actively using drugs that he was addicted to.

Notwithstanding the government's assertions that Mr. Ciccarella personally benefited from his actions, our forensic accountant's analysis submitted to your Honor with our sentencing memorandum, which were not refuted by the government, shows otherwise. It shows that when all is said and done, Mr. Ciccarella took out of pocket an additional

$357,000 of his personal savings, beyond the business checks he cashed, in order to try to save the failing businesses.

Your Honor, I respectfully request that you grant Mr. Ciccarella an opportunity to continue his therapy, allow him to continue to run his business, and employ the 40 people that now work for him, so he can find his way back to being a fully law-abiding citizen.

I want to point out, your Honor, there are more than a dozen people in the courtroom this morning, both family members and employees, here to support Mr. Ciccarella.

Thank you, your Honor.

THE COURT: Can you run through the analysis, this forensic analysis.

MR. KESTENBAUM: I can, your honor.

THE COURT: I don't think I have it.

MR. KESTENBAUM: It's at the very end of the sentencing submission.

THE COURT: In the attachments?

MR. KESTENBAUM: Yes. Marked as Exhibit B. It is the last three pages of the submission.

THE COURT: Do you have an extra copy?

I have it.

MR. KESTENBAUM: You have it?

THE COURT: Who prepared this?

MR. KESTENBAUM: It was prepared by Focus Forensic

Accountants, that are former special agents in the Internal Revenue Service.

THE COURT: Why didn't they sign it?

MR. KESTENBAUM: I didn't ask them to, your Honor.

THE COURT: That's not much credibility if you don't have an accountant's signature.

MR. KESTENBAUM: By the way, your Honor, this had been submitted during the investigation to Mr. Okula and to the special agents. This is not something that is new. The summary page --

THE COURT: Do you want me to take it into consideration in sentencing? Because I raised the question about having cashed these checks as a way of self-improvement rather than plunging it into the business, so it is very much in your interest to show that the money went into saving the businesses.

It is very hard to understand how a person starts with nothing, and builds assets of $5 million, less a net worth of two and a quarter million dollars, and has failed businesses. Businesses are not failing if you're producing that much money.

MR. KESTENBAUM: Your Honor, he had a successful business and two failing businesses. And the successful businesses were used -- the business was used to carry the failing businesses. And he had reported, earned and reported hundreds of thousands of dollars of income that he paid tax on for many years. He was successful for a time.

THE COURT: But also using unlawful means to help finance that as well.

MR. KESTENBAUM: No, that's not correct, your Honor. There were many years that Mr. Ciccarella was successful, and did accumulate assets, and did run a successful business. But he got involved with these two other businesses that became unsuccessful.

THE COURT: So instead of using his own money, or in addition to using his own money, he helped himself to government money.

MR. KESTENBAUM: He used both, your Honor.

THE COURT: Yes. Okay. The PSR tells me you have in escrow the back money that's owed to the IRS.

MR. KESTENBAUM: I have already turned it over to the Internal Revenue Service.

THE COURT: All that restitution is paid?

MR. KESTENBAUM: Fully paid. There will be an interest bill that comes with it when the Internal Revenue Service processes the amended tax returns that were already submitted. When that bill comes, it will be paid.

THE COURT: Is there a penalty assessment involved?

MR. KESTENBAUM: If the IRS assesses penalty, we'll pay that as well. The returns have to be processed. It will take a bit of a time, but the special agent working on this case has sent the returns in for processing.

THE COURT: Okay. Mr. Okula.

MR. OKULA: Just very briefly, your Honor. As your Honor knows, we tried to submit a thorough and comprehensive sentencing submission in connection with this case. There are a couple of points that I wish to emphasize, your Honor.

First, and I know it's not lost on the Court, but it bears emphasis. The fact that the defendant took these proceeds of the tax crime and put them into another business to, even if you credit the fact that he did it to prop it up, it's not unlike a situation where he was playing the stock market or going to Atlantic City. He was using it for personal purposes, your Honor, in order to make further money from a separate entrepreneurial endeavor. So instead of paying the government the taxes, and using his ample assets by, for instance, remortgaging his home or selling the Lamborghini in order to do it, he essentially stole from his fellow citizens, taxpayers, to prop that up.

THE COURT: Since money is fungible, money is usable in many different ways, including as has been charged.

MR. OKULA: Yes, your Honor. That's the point I want to make. And I think it bears emphasizing, too, your Honor, and one of the points we tried to make, that the guidelines here of 18 to 24 months reflect the sound judgment of the sentencing commission about where within the range this defendant falls as pursuant to his tax crime. The mitigating factors that the defendant has set forth in his papers, we submit, do not justify either the sentence that they request, that is complete probation, or even the one that the experienced probation officer recommended. I have the --

THE COURT: In the government's understanding, you think these businesses will remain alive and 40 people will remain employed?

MR. OKULA: I'm not convinced, your Honor, that the business is going to dissipate or it can't go on without the defendant. In fact, if that's something that the Court is going to hinge its determination on, I suggest that we have a hearing with respect to that. I don't think it does.

But even if it did, the defendant, by taking the actions that he did, your Honor, he himself made the decision to put those businesses in peril by engaging in the acts he did, year after year that he did.

So I understand that it's an important 3553 factor for the Court to take into consideration, collateral consequences with respect to the punishment. But I submit, your Honor, that -- and I have the greatest respect for the probation officer and what they do, but they got it wrong here, Judge. One of the bases of their recommendation is the fact that, and it's set out in the rationale, two of the bases were the fact he had agreed to pay restitution, and it is his first-time offense.

Well, the first-time offense status is taken into consideration with respect to the criminal history category, your Honor, so I respectfully submit that shouldn't be an important factor to rely on. And the fact that he has agreed to pay --

THE COURT: Every tax fraud I've had is a first offense.

MR. OKULA: Just about, your Honor.

THE COURT: Every securities fraud I've had, just about every securities fraud I've had is a first offense.

MR. OKULA: That's correct.

THE COURT: Business crimes tend to be first offenses.

MR. OKULA: And they tend to be longer and more intricate offenses, which show a level of consciousness and planning and decision-making to violate known legal duties, rather than spur-of-the-moment decision-making.

I was struck, your Honor, by sitting through the sentencing in the prior proceeding where your Honor had a gut-wrenching decision to make based on some horrible facts about the defendant's past and his upbringing. And I was struck because this case is so different than that, in that the defendant enjoyed financial security, financial wealth, and yet, notwithstanding that, he made the conscious decision to engage in the criminal conduct that he did.

What will the Court be saying, your Honor, if the Court credits probation's rationale that all you have to do is pay the money back and you're going to be walked out of court for an offense involving this magnitude. I suggest it is the wrong message.

I would refer back to the words of Judge Weinfeld --

THE COURT: It doesn't show respect for law if I don't give some kind of custodial punishment.

MR. OKULA: Yes. Stated otherwise, it would be a horrible message for general deterrence. If tax evaders out there knew that you can get a pass simply because it involved only about $300,000 and three years' worth of willful behavior.

I would harken back, your Honor, to the words of Judge Weinfeld. I know your Honor read our submission. And Judge Weinfeld had the quote that we captured in our sentencing memo, and he said at the end of his sentence that he imposed in United States v. Tana, "I have been of the view that unless a citizen lives up to his responsibility, there must follow, barring extraordinary circumstance, a term of imprisonment as an example to the other people in the community."

THE COURT: Yes. I subscribe to that.

MR. OKULA: I respectfully submit, your Honor, listen, Judge, I've been doing this for over 25 years. I understand there are nuances in cases, and I understand that people sitting in my position right here don't have credibility with the Court if we come in and we just say in every case "you must impose a guideline sentence." And we're not saying 18 to 24 is an absolute requirement in this case, Judge. But what we are saying, Judge, most respectfully, is some measure of incarceration is necessary to send the important, vitally important message of general deterrence. Thank you.

THE COURT: Thank you, Mr. Okula.

Mr. Ciccarella -- do you want to respond first, Mr. Kestenbaum?

MR. KESTENBAUM: I do for a moment, your Honor. I don't want to belabor any points, but I think that the probation department did get it right. I don't think that they relied --

THE COURT: Mr. Kestenbaum, I'm not affected by probation's punishment. It is my responsibility. They give me suggestions. I'm not bound by what they do. I have to make up my own mind.

MR. KESTENBAUM: When you do that, I would hope you take into account the number of people that are going to get affected by an incarceration sentence here.

THE COURT: Who is the running the business now?

MR. KESTENBAUM: Mr. Ciccarella is running the business. There is nobody there who can run this business he --

THE COURT: How old is his son?

MR. KESTENBAUM: 26 years old.

THE COURT: He's in the business, isn't he?

MR. KESTENBAUM: He works in the business. He is not capable of running the business.

THE COURT: Too many fathers say that about their sons. Maybe the son's got to step up.

MR. KESTENBAUM: It takes time to do that, and now is not the time to start learning.

THE COURT: His father's available. He's in jail, but he's available.

MR. KESTENBAUM: Your Honor, perhaps there is an opportunity to have a home confinement where he can go to work and run his business, and still have some sentence. Thank you.

THE COURT: A possibility.

Mr. Ciccarella?

THE DEFEDANT: Yes, your Honor.

Your Honor, I stand before you totally embarrassed for what I have done. I have ruined my marriage, I have set a poor example for my children, and nearly bankrupted myself in the process. I know I am responsible for all of this.

I beg for your compassion and understanding as I await your sentence. What I did was wrong, and I take full accountability for it, it was my fault. I have ruined my life to this point, but I'm trying very hard to put it back together. Honoring all the debts that need to be repaid. I have paid restitution to the government, I'm regularly seeing a psychiatrist and a psychologist, so that I may better understand some of the decision-making skills that I had at that time and make --

THE COURT: It's been reported to me that every time you've seen a psychologist, you have been able to manipulate the psychologist and do whatever you wanted to do a moment afterwards.

THE DEFENDANT: Your Honor, that is -- that would be my estranged wife's opinion of that matter.

THE COURT: Isn't the fact --

THE DEFENDANT: I was unfaithful.

THE COURT: Well, beyond the unfaithfulness, you went to couples therapy with her, and you bragged initially about being able to satisfy the therapist, then do whatever you want to do afterwards.

THE DEFENDANT: Your Honor, that is totally incorrect, and I'll state that when I saw that letter, I was very upset because where that comes from, and maybe McCallister, my lawyer over here, can better explain. This letter was the one that you were to get. Right up until I refused to hand $6 million over to her. I was given a threat, and Dennis can attest to that.

MR. KESTENBAUM: Your Honor, I did not know whether you were going to make reference to that letter or not, but having done that, I need to explain the circumstances of that letter.

As you know, your Honor, it is a crime in this state for a person to threaten criminal prosecution in order to gain advantage in a civil case.

About a week ago, Mr. Ciccarella's matrimonial lawyer, who is sitting in the courtroom today, received a phone call from Mrs. Ciccarella's attorney saying that Mrs. Ciccarella was at the post office about to file a letter, it's going to hurt Mr. Ciccarella in the sentencing, unless Mr. Ciccarella succumbs to the settlement demands of Mrs. Ciccarella. Fortunately, Mr. Ciccarella's lawyer said do what you have to do, and so she did. She sent that in. That's an extortion, it's illegal, it's unethical for the lawyer to have done that. I have Mr. Ciccarella's matrimonial lawyer in court now to attest to what I'm telling you.

THE COURT: I'm not going to get involved in a matrimonial issue.

MR. KESTENBAUM: Exactly. I don't think this is the place to try that. I think it is completely inappropriate to consider anything in that letter, other than to understand --

THE COURT: It might have been helpful, though, if Mr. Ciccarella had given Mr. DiMaria, the probation officer, a response to his request to see his wife.

MR. KESTENBAUM: Mr. DiMaria did speak to

Mrs. Ciccarella on the telephone. He was on the telephone with her.

THE COURT: He asked for her address, he wanted to visit her. And Mr. Ciccarella did not give the address, did not give the phone number.

THE DEFENDANT: Your Honor, this is news to me.

THE COURT: This is aside from things. I'm dealing with your case, I'm not a matrimonial judge.

THE DEFENDANT: I understand.

THE COURT: This is a matrimonial issue for some place else. But the issue that I come away with is that you tried couples therapy a few times, and you were cheating immediately afterwards. And you said it yourself.

THE DEFENDANT: Yes. I fully agree that that aspect of her letter is correct, that there was infidelity.

THE COURT: How do I deal with this explanation that Mr. Kestenbaum gives me that what you did was prompted by an extreme set of anxiety and an addiction to opioids? It seems to me that has nothing to do with the case.

THE DEFENDANT: Your Honor, as far as that goes the -- are you aware of the psychiatrist that I was seeing prior?

THE COURT: No. I'm not aware of the psychiatrist you were seeing prior.

THE DEFENDANT: He's in the --

THE COURT: I am aware of a very substantial tax fraud. That's what I am aware of.

THE DEFENDANT: And that's why I'm here.

THE COURT: Yes. So you heard me go through the sentencing with Mr. Oberry, right?

THE DEFENDANT: Yes, I did.

THE COURT: Mr. Oberry also wanted to have time served. You didn't serve any time. He had served some six months or so. I didn't give it to him. I gave him a custodial punishment because I felt that there was a need to respect the law. And the seriousness of the law that says that everybody pays taxes. Mr. Kestenbaum pays taxes. Mr. Okula pays taxes. I pay taxes. People who get a free ride by cheating on their taxes cheat everybody else.

So, don't I need to respect the law in some fashion and give you some degree of custodial punishment? What do you think? What would you do in my shoes?

THE DEFENDANT: I think you're in difficult shoes to be in. I mean, I'm 54 years old, I've paid many a taxes over my career.

THE COURT: But you cheated.

THE DEFENDANT: For those years -- your Honor, you're correct. During those years I cheated to salvage a business that should have been closed. What I gained was I created a mess for myself. I regret those decisions. There was no need for those decisions. What that business meant to me, I don't know. But I did it. And forget about me not being in the right frame of mind. I did it.

THE COURT: You have a 26-year-old son running the business.

THE DEFEDANT: There were multiple --

THE COURT: He's grown up with the business and knows all the things you do in the business. Why can't he run the business when you're in jail?

THE DEFEDANT: There are four aspects to the business in construction. Some of those businesses are large. For instance, we did some work at Thurgood Marshall, while that was under construction.

These are large, multimillion dollar projects. There's operations that are needed, there is financing that is needed, and estimating. It is a four-way thing in construction as far as what we do.

He has grasped the engineering portion and he is pretty good at operations. But can he handle all of it?

There is another business in play also called B.S.I. It employs an equal amount of employees. That particular business operates with me dictating which project should be taken and for which clients. Some clients just don't pay bills, and it is best to stay away. So I make decision-making skills there also.

THE COURT: I'm sure you shared these with him.

THE DEFENDANT: I have shared them with him.

THE COURT: I think it is a very good opportunity for him to grow.

THE DEFENDANT: It might very well be, your Honor. During this time period, I think what AnneMarie did not state, that while her and her husband, my stepdaughter, I have cared for her for four years in every way possible. She sits right there.

THE COURT: There's any number of letters I've read, Mr. Ciccarella.

THE DEFENDANT: Not that one.

THE COURT: That have told me what things you have done for others. Employing people who could not be employed.

THE DEFENDANT: That's correct.

THE COURT: Employing people with severe disabilities.

THE DEFENDANT: That is correct.

THE COURT: Helping out where others did not help. I'm very impressed with that.

It is a very difficult task I have to sentence someone. Because I have the attitude that I'm never sentencing bad people. I'm sentencing people who did bad things. Nobody's 100 percent good or 100 percent bad. It is a complicated mixture. And I have the task of sentencing you for a serious crime. Otherwise, you are an outstanding citizen. You own a business, you employ people, including a lot of people who would find difficulty getting employment elsewhere. You show them respect, you show them leadership, you give them dignity and money that they might not otherwise have. I respect you for that. And the community respects you. Which makes it all the more difficult for me to sentence you.

I've sentenced a lot of people. It's always difficult. Because I wear a suit like you wear a suit. I wear a shirt and tie the way you wear a suit and tie. I have a family like you've got a family. I have friends like you have friends. And to the whole panoply of friends and community, I am a very good person as you are a very good person. So it can easily be me in your shoes, which makes it so much more difficult to sentence. I identify completely with you. Yet, I must sentence you.

I think the obligation to pay taxes is basic to our civilization. It makes it possible to have a lawful society. You read every day of crimes and violence in our country. But so much so in so many other countries where people can't get out of their house without fearing their lives. Where the path of getting food is strewn with threats and violence against them.

In order to have a society, you must have money. You must be able to pay what society requires. And its basic functions of policing and other functions of making sure there is a safety net under people. If people don't pay their taxes, they cheat each other. Your not paying taxes cheats me. If I don't pay my taxes, I cheat you. It's as bad, in many ways, as ripping off the delivery worker that the last fellow did. You're ripping off everybody else by not paying your share of taxes.

So I look upon this and I think the guidelines have it right here. I think a year and a half, 18 months, is a just sentence. I impose it.

I think you're going to have to reflect on what you did and the seriousness of what you did. You just can't make it good by paying the back tax. You've got to understand that when you do something bad, you get punished. It's got to be a lesson to everyone else. Everyone else is tempted to draw a line and cheat a little bit, get an extra edge.

Where should it be served, Mr. Kestenbaum, at a facility close to home?

MR. KESTENBAUM: As close to home as possible.

THE COURT: Which is very important here, because his son is going to have to consult with him numerous times, running his business and be responsible for employees.

MR. KESTENBAUM: Your Honor, in terms of time to report --

THE COURT: I was going to ask that question.

MR. KESTENBAUM: Could I ask his matrimonial lawyer?

MR. OKULA: We have no objection to giving him a reasonable period of time to self-surrender, your Honor.

MR. KESTENBAUM: 30 days would be sufficient, your Honor.

THE DEPUTY CLERK: April 11.

THE COURT: At 2 o'clock. April 11, 2017, at 2 p.m. at the facility designated by the bureau of prisons.

I will impose a fine of $100,000. This is a financial crime. It should not be a zero assessment of paying it back. I don't know what the IRS will do. It can take into consideration that the Court has imposed a $100,000 fine.

When can you pay it?

THE DEFENDANT: Two weeks, three weeks.

THE COURT: You can have more time if you need it.

THE DEFENDANT: Three weeks, your Honor.

Your Honor, are you saying to pay the fine or to come up with a plan as to how it is to be paid?

THE COURT: To pay it.

THE DEFENDANT: Three weeks.

THE DEPUTY CLERK: March 31, payable by March 31.

THE COURT: Mr. Okula, I don't see any point in having any supervised release in this case. There's no money that will be due. The restitution has been paid. The fine will be paid. Mr. Ciccarella can attend to his own psychological and psychiatric needs. What point would be served by supervised release?

MR. OKULA: Judge, I take no position with respect to that, so if the Court deems it appropriate that there be no supervision, we're fine with that.

THE COURT: The only problem is the drug addiction. What do you think, Mr. Kestenbaum?

MR. KESTENBAUM: I think at this point that's not necessary, your Honor. I think he has that well in hand now.

THE COURT: Well, you never know with that. This could be provided through the probation services. Let me impose two years of supervised release.

The mandatory conditions are stated at the bottom of page 20 of the presentence investigative report, and the standard and special conditions stated at page 22, with the following exceptions: There is no point to a search, the condition will not be imposed. There's no amounts that will be due, so the restrictions on new credit charges will not be imposed. However, to the extent the probation officer seeks access to requested financial information, that will be required.

The provisions for participation in outpatient mental health treatment and drug programs will be imposed.

The defendant is to report to the nearest probation office within 72 hours of release from custody. He'll be supervised by the district of his residence.

Mr. Ciccarella is assessed $100, which is the mandatory special assessment under the Crime Control Act.

I think that completes it except for notification of right to appeal and dismissal of underlying counts. Have I missed anything?

MR. OKULA: No, your Honor. And there are no underlying counts.

THE COURT: Mr. Kestenbaum, have I missed anything?

MR. KESTENBAUM: No, your Honor.

THE COURT: Punishment is so ordered.

I advise you, Mr. Ciccarella, that you have a right to appeal. You are to discuss with Mr. Kestenbaum whether or not you wish to appeal. If Mr. Kestenbaum is requested to appeal, I instruct you to do so in a timely basis.

Thank you all for coming in to witness this session.

MR. OKULA: Thank you, your Honor.

MR. KESTENBAUM: Thank you, your Honor.

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